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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,626	02/21/2002	Robert R. Gordon	GORDC.001A	4451

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EXAMINER	
DRODGE, JOSEPH W	

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/082,626	GORDON, ROBERT R.	
	Examin r	Art Unit	
	Joseph W. Drodge	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-38* is/are pending in the application.

4a) Of the above claim(s) *31-38* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5-12,14-23 and 25-30* is/are rejected.

7)☒ Claim(s) *2-4,13 and 24* is/are objected to.

8)☒ Claim(s) *31-38* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *0402* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

NON-FINAL REJECTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-30, drawn to a filter apparatus having a manifold, filter basket and surrounding filter element, classified in class 210, subclass 452.

II. Claims 31-38, drawn to an encased pump suction inlet in combination with a filter basket, classified in class 210, subclass 416.1.

The inventions are distinct, each from the other because:

The inventions are distinct, each from the other because:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in filter apparatus upstream of a pump and associated suction inlet, while invention II has separate utility with a filter assembly utilizing means other than a manifold to introduce backflushing fluid to backflushing tubes. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Jeff Birchak on September 22, 2003, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-30. Affirmation of this election must be made by applicant in replying to this Office action. Claims 31-38 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-12, 14-23 and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiban patent 4,210,539.

Shiban discloses an arrangement constituting filter element 22, filter basket 20/21/24, supply line to flushing medium 43 (column 3, lines 56-60), manifold 32/36 (column 3, lines 60-62, the conduit intersections where branching occurs is deemed a "chamber"), and plurality of tubes 38,39, each having a plurality of backflushing perforations 41, all required by independent claims 1,12 and 23.

Also disclosed is sump 1, 2 which serves as a "tank" from which the water which is filtered and then partially used for backflushing originates as required in claim 23.

Other disclosed features include: discharge hole 9/16 to pump [claim 15], the basket being cylindrical-column 2, lines 66-67 [claims 5 and 25], there being a "bottom plate" 10 having openings and attachments [claims 10,11,21,22, 29 and 30] and means of securing the tubes to the manifold-column 3, lines 20-30 [claims 17-19].

Regarding claims 6 and 26, the type of fluid used for backflushing is not a structural limitation.

Regarding claims 7,16 and 27, the term filter "sock" is merely preferred nomenclature.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 8, 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiban in view of Miller patent 4,977,958.

These claims also require the perforations to be in plural rows. Miller teaches plural rows of perforations-figures 5,6,9,10 and column 4, lines 43-56. It would have been

obvious to one of ordinary skill in the art to have equipped the backflushing tubes with plural rows of the perforations in the Shiban arrangement, as taught by Miller, so as to backflush the entire surface area of the filter basket and filter element.

Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiban in view of Macia patent 5,490,924.

These claims differ in also requiring the plural backflushing tubes to constitute six in number, Shiban only disclosing two. Macia teaches such additional tubes-column 6, lines 51-56 and column 7, lines 41-61. It would have been obvious to one of ordinary skill in the filtration art to have equipped the Shiban arrangement with additional tubes for backflushing, as taught by Macia, so as to backflush the entire surface area of the filter basket and filter element.

ALLOWABLE SUBJECT MATTER

Claims 2-4, 13 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

These claims distinguish in view of respective recitations of the basket containing both pump and motor within the basket. Such compact arrangement could not be found in the prior art in a form combinable with the other claim limitations. The prior art generally teaches either the pump and motor being downstream of the basket (Shiban) or a form of pump basket containing a pump which either does not require a motor or is coupled to a motor which is remote from the pump (Miller).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ford patent 4,037,661 teaches means to backflush a well screen basket filter that is upstream of a well pump with either compressed air or water.

Any inquiry concerning this communication or other matters regarding prosecution of this application should be directed to Examiner Joseph Drodge at telephone number (703) 308-0403 between 8:30 and 4:45 Mondays through Fridays. The Fax number for the examining Group is (703) 872-9306.

JWD

September 25, 2003

JOSEPH DRODGE
PRIMARY EXAMINER